

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF GEORGIA**  
**SAVANNAH DIVISION**

UNITED STATES OF AMERICA	)	
	)	
v.	)	Case No. CR414-184
	)	
BRANDON SAPP, <i>et al.</i>	)	

**ORDER**

Brandon Sapp and Kimberly Sapp, who are husband and wife, sit atop this 54-defendant conspiracy case. Doc. 3 (indictment charging all defendants with conspiracy to (1) commit mail/wire fraud and (2) launder the proceeds of that illegal activity). During their initial appearance yesterday, both defendants were represented by the same attorney, Steven H. Sadow. Mr. Sadow made clear that he intends to represent the Sapps throughout the prosecution.

A district court “must promptly inquire about the propriety of joint representation,” advise the defendants of their right to separate counsel not burdened by the potential for divided loyalties, and “take appropriate measures” to ensure each defendant’s right to the effective assistance of

counsel. Further, “[f]ederal courts have an independent interest in ensuring that criminal trials are conducted within the ethical standards of the profession and that legal proceedings appear fair to all who observe them.” *United States v. Wheat*, 486 U.S. 153, 160 (1988). Given this over-arching concern, courts have considerable discretion whether to accept or disallow a defendant’s waiver of his right to conflict-free counsel. Compare *United States v. Robaina*, 2013 WL 3243368 at \* 10-11 (S.D. Fla. June 26, 2013) (accepting husband and wife’s waiver of their right to conflict-free counsel) with *United States v. Jones*, 2011 WL 4923415 at \* 3 (E.D. Pa. Oct. 17, 2011) (in a case charging husband and wife with conspiracy to commit mail/wire fraud and money laundering, court found “that the serious potential for conflict warrants [counsel’s] disqualification, notwithstanding Defendants’ assertions that no conflicts exist and that they will waive any that might arise.”).

Before the Court proceeds with the Rule 44(c) hearing, the parties shall brief the question of whether Mr. Sadow’s joint representation of both Brandon and Kimberly Sapp should be permitted in this case. In his brief, Mr. Sadow shall furnish this Court with a list of all federal criminal

cases where (1) he has been allowed to represent two or more defendants in the same case and (2) he has sought but has been denied leave to represent two or more defendants in the same case. The parties' briefs shall be filed within 14 days of the date this Order is served.

**SO ORDERED** this 12<sup>th</sup> day of June, 2014.

  
\_\_\_\_\_  
**UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF GEORGIA**